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1	BEFORE THE ARIZONA	COI	KAF	MENERON COMMISSION
2	JIM IRVIN	AZ C	ORP	COHHISSION
3	Commissioner-Chairman TONY WEST	Mar	4	8 o4 AM '99
1	Commissioner	• • • • • • • • • • • • • • • • • • • •	Pr.	
4	CARL J. KUNASEK Commissioner	00	CNH.	ENT CONTROL
5				D. C.
6	In the matter of)	DOCKET NO. S-03177A-98-0000
7	FOREX INVESTMENT SERVICES CORPORATION)	
8	2700 N. Central Ave., Suite 1110 Phoenix, AZ 85004)	MOTION TO ADMIT INTO EVIDENCE A POST-HEARING
9	EASTERN VANGUARD FOREX LTD.)	EXHIBIT
10	2700 N. Central Ave., Suite 1110 Phoenix, AZ 85004)	
11	c/o HWR Services Limited, Registered Agent)	
12	P. O. Box 71, Craigmuir Chambers Road Town, Tortola)	Arizona Corporation Commission
13	British Virgin Islands)	DOCKETED
14	EASTERN VANGUARD GROUP LIMITED c/o AMS Trustees Limited, Registered Agent)	MAR 04 1999
15	Creque Building, Main Street, P. O. Box 116 Road Town, Tortola)	DOCKETED BY
16	British Virgin Islands)	South
17	K. (DAVID) SHARMA Eastern Vanguard Forex Ltd.)	
18	P. O. Box 71, Craigmuir Chambers Road Town, Tortola		į	
19	British Virgin Islands)	
ĺ	SAMMY LEE CHUN WING)	
20	Eastern Vanguard Group Limited Creque Building, Main Street, P. O. Box 116)	
21	Road Town, Tortola British Virgin Islands)	
22	PETER SUEN SUK TAK)	
23	Eastern Vanguard Group Limited Creque Building, Main Street, P. O. Box 116)	
24	Road Town, Tortola)	
25	British Virgin Islands)	
26	•••)	

1	JAMES CHARLES SIMMONS, JR. 5045 N. 58 th Ave. #23A)
2	Glendale, AZ 85301)
3	MICHAEL E. CHO 839 Faxon Avenue)
4	San Francisco, CA 94112)
5	TO FAI CHENG (1800 Van Ness, 2 nd Fl. (1900 Van Ness, 2 nd Fl. (1900 Van Ness, 2 nd Fl. (1900 Van Ness))
6	San Francisco, CA 94109)
7	JEAN YUEN 439 3 rd Avenue)
8	San Francisco, CA 94118)
9	Y & T INC. dba TOKYO INTERNATIONAL INVESTMENT LTD.	1
10	1800 Van Ness Ave., 2 nd Fl.)
11	San Francisco, CA 94109	!
12	WING MING TAM c/o Tokyo International Investment Ltd.	ı
13	1800 Van Ness Ave., 2 nd Fl. San Francisco, CA 94109	į
14	GUO QUAN ZHANG	, }
15	c/o Tokyo International Investment Ltd. 1800 Van Ness Ave., 2 nd Fl.	
16	San Francisco, CA 94109	,
17	Respondents.	į
18)	ļ

The Securities Division ("Division") of the Arizona Corporation Commission hereby moves to admit into evidence in the above-captioned proceeding the affidavit and its affixed Exhibit A that were filed in this matter by Respondents on December 9, 1998, a copy of which is attached hereto and marked as Exhibit S-184. Pursuant to A.A.C. R14-3-109(Q), the grounds for this motion are as follow.

I. BACKGROUND

On October 23, 1998, an undated affidavit by Alwin Yam marked as Exhibit S-183 was admitted

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into evidence in this proceeding by stipulated motion of the parties following its production to the Division by Respondents. *Hearing Transcript, Vol. XIX, p. 3193-94*. At a post-hearing procedural conference on November 4, 1998, the Hearing Officer ordered further production of records by Respondents pursuant to pending pre-hearing requests by the Division for documents. *Procedural Conference Transcript, pp. 27-28*. On December 9, 1998, Respondents filed another affidavit by Alwin Yam, with affixed Exhibit A, dated December 2, 1998. This second Yam affidavit and attachment contained information not previously disclosed by Respondents. The Division believes this information is evidence relevant to facts that are of consequence to the determination of this matter. Insofar as it was not produced before or during the hearing pursuant to the Division's pending requests, it is reasonable and appropriate for the affidavit and its attachment to be now entered into evidence as Exhibit S-184 in order to supplement the record. Moreover, even if no production requests remained pending following the hearing, A.A.C. R14-3-109(G) permits the Hearing Officer to consent to the introduction of further evidence even after a party "has rested his case."

The Division has conferred with counsel for all Respondents except James Charles Simmons, Jr., and that counsel has informed the undersigned of no objection to the admission into evidence of Exhibit S-184. The Division has not conferred with Respondent Simmons, who has failed to appear at or participate in the hearing and post-hearing proceedings.

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II. CONCLUSION

For the foregoing reasons, the Division now moves to admit Exhibit S-184 into evidence in this proceeding.

DATED this 3 day of March, 1999.

JANET NAPOLITANO

Attorney General Consumer Protection & Antitrust Section

MARK C. KNOPS Special Assistant Attorney General Robert A. Zumoff

Assistant Attorney General

Attorneys for the Securities Division of the

Arizona Corporation Commission



AFFIDAVIT OF ALWIN YAM

ALWIN YAM, upon his oath, does depose and state:

- 1. My name is Alwin Yam.
- 2. I am the Chief Administrator for Eastern Vanguard Forex Limited ("EVFL").
- 3. To Fai Cheng and Scott Yuen, who is the husband of Jean Yuen, were the source of the funds provided to Forex Investment Services Corporation ("FISC") from EVFL in 1996.
- 4. These funds were loans to FISC from a trading account jointly held by Mr. Cheng and Mr. Yuen with EVFL.
- In 1996, when funds were needed to support the operation of FISC, Mr. Cheng and Mr. Yeun frequently asked EVFL to wire transfer funds from their trading accounts to FISC'S Wells Fargo bank account.
- 6. Attached as Exhibit A is a series of statements for Mr. Cheng and Mr. Yuen's account reflecting margin withdrawals that were ultimately wire transferred to FISC. Exhibit A consists of the following:
 - a. A March 27, 1996 statement reflecting a \$20,000 margin withdrawal;
 - b. A May 22, 1996 statement reflecting a \$20,000 margin withdrawal;
 - c. A June 28, 1996 statement reflecting a \$20,000 margin withdrawal;
 - d. An August 1, 1996 statement reflecting a \$20,000 margin withdrawal;
 - e. An August 7, 1996 statement reflecting a \$20,000 margin withdrawal;
 - f. An October 21, 1996 statement reflecting a \$10,000 margin withdrawal,
 - g. A November 5, 1996 statement reflecting a \$20,000 margin withdrawal; and
 - h. A December 4, 1996 statement reflecting a \$15,000 margin withdrawal.
- 7. All of the items listed in paragraph 6 correspond to certain deposits made in FISC's account in 1996.
- 8. EVFL does not have records related to any of the other deposits to FISC's account in 1996.
- 9. In 1996, however, virtually all of the deposits into FISC's account were from Mr. Yuen and Mr. Cheng.

- 10. EVFL has no records, in addition to the records previously provided to the Division, related to the transfers of funds from EVFL's San Francisco Citibank account to the Marine Midland Bank account in New York City.
- 11. The vast majority of the funds that were transferred to Marine Midland Bank were the result of trading losses sustained by FISC's investors.
- 12. When losses in investors' accounts reach a certain level, the dealers with whom we place our trades ask us to provide them with additional margin.
- 13. EVFL usually forwards the margin to the dealers and then replenishes the funds it transferred with funds from the particular accounts that sustained the losses.
- 14. When EVFL would withdraw funds from the San Francisco account, it would also withdraw funds reflecting the fees to which it was entitled under its servicing agreement with FISC.
- 15. Exhibit S-73 is a copy of the servicing agreement between FISC and EVFL.
- 16. The servicing agreement governs the transfers from EVFL to FISC in 1997.
- 17. This agreement provided that EVFL would pay FISC \$20,000 a month, plus \$50 per settlement unit.
- 18. EVFL would receive \$20 if the trade were a day trade and \$30 if the trade were an overnight trade.
- 19. EVFL hoped that FISC would execute a sufficient amount of monthly trades so that both FISC and EVFL would profit from the servicing agreement.
- 20. Unfortunately, FISC was very unsuccessful.
- 21. The income earned by EVFL in 1997 as a result of the trades executed by FISC did not remotely approach the nearly \$300,000 that EVFL provided FISC during that year.
- 22. In fact, EVFL lost over \$200,000 in 1997 as a result of its servicing agreement with FISC.
- 23. For example, Exhibit S-159 indicates that EVFL paid FISC \$140,954 from April through August, 1997.
- 24. If this exhibit is correct and FISC executed 958 trades during this time frame, EVFL's income pursuant to the servicing agreement would have been between \$19,160 (958 day trades x \$20 a trade) and \$28,740 (958 overnight trades x \$30 a trade).
- 25. These figures do not approach the \$140,954 paid to FISC.
- 26. If FISC had not terminated its operations in December, 1997, EVFL would, in all likelihood, have terminated the servicing agreement.
- 27. Because of the losses EVFL suffered in connection with FISC's operation, none of the officers, directors or principals of EVFL received any direct and/or indirect benefit from FISC's operation.
- 28. Any compensation EVFL's principals received in 1997 would have been from sources other than FISC.

- 29. EVFL has no records of any compensation to any of its officers, directors and/or principals as a result of FISC's operations because there was no compensation.
- 30. Eastern Vanguard Group Limited ("EVGL") is a holding company that holds EVFL.
- 31. EVGL received no direct and/or indirect benefit from EVFL and/or from any of the accounting transfers at issue in this case.
- 32. EVFL has received no direct or indirect benefit from EVGL and/or any of the accounting transfers at issue in this case.
- 33. None of EVGL's and/or EVFL's principals received any direct and/or indirect benefit as a result of any of the accounting transfers at issue in this case.

ALWINYAM

SUBSCRIBED AND SWORN to me before this 2 nd day of December, 1998.

Notary Public

PETER WAI-KEUNG LO Notary Public Hong kong

ROOM 507-10 BANK CENTRE 630-636 NATHAN ROAD KOV/LCON, HONG KONG

My Commission Expires:

Exhibit A



P.O Bux 71. Craigmur Chambers, Road Town Toricle. British Virgin Islands.

Name:

Address:

CHENG TO FAI & SCOTT YUEH

NO.49, SECTION 1. PUI MAN VILLAGE, KONLOON,

HONG KONG.

Account No.

I.I.C. Name

9808

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Trade Date

27/03/96

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ACCOUNT DETAILS

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Margin Deposit	20,000.00	Equity	
Margin Withdrawal		Margin Requirement	0,09 80,463,28
Adjustinent	0.00	Effective Margin	80,467.20
Net Profit/Loss			

E. & O. E.

Please notify or within 77 hours, it this statement of account is incorrect, otherwise this statement of account will be decored correct and accepted by you. Thank you

FOR AND ON BEHALF OF EASTERN VANGUARD FOREX LTD.



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P.O.Box 71. Craignuir Chambers, Road Town. Tortola, British Virgin Islands

Name:

CHENG TO FAI & SCOTT YUEN

Account No.

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MO.40, SECTION 1,

I.I.C. Name

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Address:

PUT MAN VILLAGE, KOWLODH,

Trade Date

22/05/96

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TRADING LIST

Ref. No.	Description	Date	Bought	Lot(s)	Date	Sold	Lot(s)	Commission	Premium	Trade Profit / Loss
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ACCOUNT DETAILS

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Frevious Balance	100,868.19	New Balance	/B, 66b. /3
Margin Deposit	0.00	Flouring P/L.	6,221.55
Margin Withdrawa!	20,000.00	liquity	£4,888.28
Adjustment	0.00	Margin Requirement	20,000.00
Net Purfulf os	-2,201.46	Effective Margin	64,888.23

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FOR AND ON BEHALF OF

EASTERN VANGUARD POREX LTD.

Authorized Signature(s)



P. O. Bax 71, Craignuir Chambers, Road Town. Tortola British Virgin Islands.

Name:

CHENG TO FAI & SCOTT YUEN

Account No.

9808

I.I.C. Name

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Address:

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Trade Date Page

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Ref. No.	Description	Date	Louis?	Bought Price	Sold Price	Closing Price	Promium	Floating P/L
1.3	STE	25/05/96	50	1.53900		1.55200	267.19	16,250.00
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	Accoo	1.1 221.1120	
Previous Baiance	66,572.11	New Balance	4£, 839. 30
Margin Deposit	0,00	Floating P/L	16,250.00
<u> </u>	20,000,00	Equity	£3,083,30
Margin Withdrawa)	0.00	Margin Requirement	40,000.00
Adjustment	267, 19	Effective Margin	23,089,30
Net Profit/Loss	201,17	<u> </u>	L

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FOR AND ON BEHALF OF

EASTERN VANGUARD FOREX LTD.

Authorized Signature(s)

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P.O.Box 71. Craignuir Chambers. Road Town. Tariwa British Virgin Islands.

Name:

Address:

CHENG TO FAI & SCOTT YUEN

Account No.

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Trade Date

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Ref. No.	Description	Date	Bought	Lot(s)	Date	Sold	Lou(s)	Commission	Premium	Trade Profit / Loss
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	T Providence	Date	Lo:(s)	Bought Price	Sold Price	Clusing Prico	Promium	Flouting P/L
Ref. No.	Description STS	01/08/96	10	1.55600		1.55250	135.07	-2,187.50

ACCOUNT DETAILS

	ACCOC	NI DETAKO	74,363.92
Previous Balance	94,228.85	New Bulance	-2,187.50
	0.00	Floating P/L	72,176.42
Margin Deposit	20,000.00	Equity	20,000.00
Mangin Withdrawal	9.00	Margin Requirement	
Adjustment	135.07	Effective Margin	52,176.42
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FOR AND ON BEHALF OF EASTERN VANCHER LTD.

Authorized Signature(s)

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P.O.Box 71. Craigmuir Chambers, Road Town. Toriola, British Virgin Islands.

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Previous Balance	74,769,13 New Balance	68,757.95
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Margin Depoxit	20,009.00 Equity	68,757.95
Margin Wididrawii	0.00 Margin Requ	irement 0.00
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Authorized Signature(s)

Client Record

F.C.Bax 71, Craigmuir Chambers, Road Town Tortola, British Virgin Islands.

Name:

CHENG TO FAI & SCOTT YUEN

Account No.

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NO.49, SECTION 1, PUI MAN VILLAGE, KOWLOON, I.I.C. Name

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Previous Balance	49,571.41	New Balance	39,4/8.92
Margin Deposit	0.00	Floating P/L	886.13
Margin Withdrawal	10,000.00	Equity	40, 365.00
Adjustment	9.00	Murgin Requirement	20,000.00
Net Profit/Lans	-92.49	Effective Margin	20, 365, 05

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FOR AND ON BEHALF OF

EASTERN VANGUARD FOREX LTD.

Authorized Signatures

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P.O.Bex 71 Craigmuir Chambers, Road Town. Tortola, British Virgin Islands.

Client Record

Name:

Address:

CHENG TO FAI & SCOTT YUEN

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Trade Date

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Previous Balance	52,749.94	New Balance	32,658.57
Margin Deposit	0.00	Floating PA.	480,71
Margin Withdrawat	20,000,00	Equity	37,139,28
Adjustment	0.00	Margin Requirement	20,000,00
No: ProfidLoss	-91.37	Effective Murgin	13,139,28

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FOR AND ON BEHALF OF

EASTERN VANGUARD FOREX LTD.

Authorized Signature(s)

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F. O.Box 71, Craigmur Chambers. Road Town Textola, British Virgo Islands,

Client Record

Name:

Address:

CHENG TO FAI & SCOTT YUEN

NO.49, SECTION 1,

PUT MAN VILLAGE, KOWLOON,

HONG KONG.

Account No.

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I.I.C. Name

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Trade Date

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TRADING LIST

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Previous Balance	27, 389, 99	New Balance	12,535.08
Margin Deposit	6.30	Floating 17/C	-1, 954.41
Margin Withdrawal	15,000.00	Equity	10,581.67
Adjustment	0.00	Margin Requirement	20,000.00
Not Profigliose	46.09	Effective Marrin	0,00

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FOR AND ON BEHALF OF

EASTERN VANGETERFOREX LTD.

Authorized Signature(s)

1 2	ORIGINAL AND TEN (10) COPIES of the foregoing filed this day of March, 1999, with:
3	Docket Control Arizona Corporation Commission
4	1200 West Washington Phoenix, AZ 85007
5	COPY of the foregoing mailed and/or faxed this day of March, 1999 to:
6	
7	James Charles Simmons, Jr. 5045 N. 58 th Ave. #23A
8	Glendale, AZ 85301 RESPONDENT PRO SE
9	Paul J. Roshka, Jr., Esq.
10	Alan S. Baskin, Esq. Roshka Heyman & Dewulf, PLC
11	Two Arizona Center 400 No. 5 th St., Ste. 1000
12	Phoenix, AZ 85004 ATTORNEYS FOR ALL RESPONDENTS EXCEPT JAMES CHARLES SIMMONS
13	By: Wilnda Formers
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